

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 96-3161

Kevin Ray Laird,	*	
	*	
Appellant,	*	Appeal from the United States
	*	District Court for the
v.	*	Southern District of Iowa
	*	
United States of America,	*	[UNPUBLISHED]
	*	
Appellee.	*	

Submitted: April 24, 1997

Filed: May 20, 1997

Before McMILLIAN, FAGG, and LOKEN, Circuit Judges

PER CURIAM.

Kevin Ray Laird appeals from a final order of the United States District Court¹ for the Southern District of Iowa, denying his 28 U.S.C. § 2255 motion to vacate his sentence. For the reasons discussed below, we affirm.

In 1991, a jury found Laird guilty of distributing drugs, in violation of 21 U.S.C. §§ 846, 841(a)(1) and 18 U.S.C. § 2, and using or carrying a firearm during a drug-trafficking crime, in violation of 18 U.S.C. § 924(c)(1). We affirmed his convictions

¹The Honorable Charles R. Wolle, Chief Judge, United States District Court for the Southern District of Iowa.

and sentence. See United States v. Laird, 948 F.2d 444 (8th Cir. 1991).

Laird filed this motion after the Supreme Court decided Bailey v. United States, 116 S. Ct. 501, 506 (1995), and argued that there was insufficient evidence to support his conviction for carrying a firearm in relation to a drug-trafficking crime. The district court disagreed and denied relief.

The evidence at trial showed that Laird drove a vehicle to a convenience store parking lot where he sold cocaine to an undercover police officer, and that officers found drugs in the vehicle and a loaded .25 caliber pistol under the driver's seat. Because transporting a firearm within the passenger compartment of a vehicle loaded with drugs is "carrying" a firearm, we conclude the district court properly denied relief. See United States v. Nelson, No. 96-3103, slip op. at 5-7 (8th Cir. Apr. 2, 1997) (to be reported at 109 F.3d 1323); United States v. Caldwell, 97 F.3d 1063, 1069-70 (8th Cir. 1996); United States v. Willis, 89 F.3d 1371, 1379 (8th Cir.), cert. denied, 117 S. Ct. 273 (1996). Because there is sufficient evidence to support a carrying, we need not decide whether Laird also "used" a firearm. See Willis, 89 F.3d at 1379.

Accordingly, we affirm the judgment of the district court.

A true copy.

Attest:

CLERK, U. S. COURT OF APPEALS, EIGHTH CIRCUIT.